

## REMARKS

Claims 1-11, 13-18, 20-42, 45-51, and 55-93 are pending. Claims 34, 37, 46, 49, and 51 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application 6,289,314 to Matsuzaki et al. Claims 35, 36, and 45 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Matsuzaki. Claims 38-42, 45, 47, and 48 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Matsuzaki in view of U.S. Patent No. 6,898,762 to Ellis et al. Claims 67-86 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Matsuzaki in view of U.S. Patent Application Publication 2001/014975 to Gordon et al. Claim 50 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Matsuzaki in view of U.S. Patent No. 6,539,548 to Hendricks et al. Claims 1-11, 17, 18, 20-23, 32, and 55-66 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Gordon et al. in view of Matsuzaki.

Reconsideration is requested. The rejections are traversed. No new matter has been added. Claims 1, 35, 45, and 46 have been amended. Claims 87-93 are added. Claims 1-11, 13-18, 20-42, 45-51, and 55-93 remain in the case for consideration.

Support for the new claims and amendments may be found in the application as filed, for example, on pages 8, 11, and 12, and FIGs. 8, 15, and 16.

## OFFICIAL NOTICE

Regarding the Official Notice taken by the Examiner in the rejections of various claims, the Applicant traverses the Examiner's assertion of Official Notice. In particular:

Regarding claim 35, while the Applicant agrees that distributing particular types of data from a provider to a user over the Internet might have been known in the art, the Applicant asserts that it was not well known in the art to distribute all types of data over the Internet. In particular, claim 35 as amended, the digital content is digital video content. The Applicant requests that the Examiner produce authority of the statement of Official Notice and specify in relation to the language of the claims what types of data were distributed over the Internet.

Regarding claim 36, while the Applicant agrees that analog pay per view video may have been well known in the art, the Applicant believes that at the time of filing the technology of delivering digital video on demand was well known in the art. The Examiner is generalizing from one field to another without basis. The Applicant requests that the Examiner produce authority of the statement of Official Notice.

Regarding claims 15, 21-22, 25-26, 31, 33, and 45, while the Applicant agrees that it might be known to a user profile may be stored on a server, the Applicant disagrees that such user profile is well known in the art to be stored on a headend or provider. In particular, the Applicant believes that the data, such as a rate key, included in the user profile was not known to be stored in a headend or provider. The Applicant requests that the Examiner produce authority of the statement of Official Notice.

#### REJECTIONS UNDER 35 U.S.C. § 102(e)

Claim 34 is directed toward a method for delivering digital content, the method comprising: receiving a request for the digital content from a unit in a multiple unit environment at a server; accessing the digital content from a memory on the server; delivering the digital content to the unit, the delivery of the digital content being independent of an asynchronous delivery of a second digital content to a second unit in the multiple unit environment; accessing a default rate for the digital content; accessing a custom rate for the digital content; accessing a rate key from a user profile; and selecting the default rate or the custom rate for the digital content, based on the rate key.

Matsuzaki teaches a pay information providing system capable of obtaining a charge for use in response to an actual degree of use by a user. *Matsuzaki, col. 3, ll. 40-44*. From Matsuzaki the Examiner cited the basic charge information as the default rate, a charge based on the product of the basic charge and the coefficient of basic charge as the custom rate, and another coefficient of basic charge associated with a member of a group as the rate key. However, in claim 34, the default rate or the custom rate is selected based on the rate key. Based on the Examiner's interpretation of the default rate, custom rate, and rate key, in order for Matsuzaki to teach such a feature, a selection between the basic charge information (the default rate), and the product of the basic charge and the coefficient of basic charge (the custom rate) must be made based on the other coefficient of basic charge associated with a member of a group (the rate key). Matsuzaki does not teach such a feature.

Coefficients of basic charge are used to obtain the charge for the pay information by multiplying the basic charge with the coefficient of basic charge. *Matsuzaki, col. 20, ll. 3-6*. Thus, the other coefficient of basic charge associated with a member of a group is used to create a new charge, not to select between the basic charge and the product of the basic charge and the coefficient of basic charge.

Furthermore the custom rate is distinguishable from a coefficient of basic charge. Claim 34 includes accessing a custom rate. The coefficient of basic charge is not a rate. It must be multiplied with the basic charge before it becomes a rate. Therefore, accessing a coefficient of basic charge in Matsuzaki is not accessing a custom rate as used in claim 34.

In addition, claim 34 includes accessing a default rate, a custom rate, and a rate key. As described above, the Examiner cited a charge calculated using a coefficient of basic charge for both the custom rate and the rate key. As described in the application, a rate key is distinguished from a rate. "For any given rate key, there can be as few as one associated product or as many as all the files in the digital content. Each product associated with the rate key ... has a price associated with it." *See Application, p. 8, ll. 9-11*. Thus, a rate key associates a group of products and their prices together. A coefficient of basic charge from Matsuzaki merely indicates a modification to the price, it is not an indicator of a group including the price. In addition, even though a rate key may have only one associated product and price, the rate key is an indicator of the group containing that product, not the price itself. As a result, Matsuzaki does not teach accessing a rate key as used in claim 34.

Thus Matsuzaki does not teach each and every element of claim 34 and dependent claims 37, 46, 49, and 51. Accordingly, under 35 U.S.C. § 102, claims 34, 37, 46, 49, and 51 are allowable over Matsuzaki.

#### REJECTIONS UNDER 35 U.S.C. § 103(a)

Claim 1 is directed toward a system for delivering digital content on demand in a multiple unit environment, the system comprising: a server local to the multiple unit environment, the server including a memory storing the digital content and content metadata about the digital content stored in the memory of the server, and capable of supporting multiple simultaneous asynchronous accesses to the digital content; a billing system for billing each individual unit based on use of the digital content, the billing system coupled to the server and the content metadata including a plurality of default rates for the digital content, a plurality of custom rates for the digital content, and a plurality of rate keys, each rate key associated with at least one of the custom rates; at least one access system in a plurality of units in the multiple unit environment, the access system designed to access the digital content stored in the memory on the server ; and a user profile including user metadata including at least one of the rate keys; wherein the billing system is configured to select a rate for the digital content from among the

default rates and the custom rates in response to the rate key of the user metadata. Claims 2-11, 13-18, 20-33, 55-66 depend from claim 1.

Claims 38-42, 45, 47-50, and 67-93 depend from claim 34, described above.

In rejecting claims 38-42, 47-48, 50, and 67-86, the Examiner has relied on various other references in combination with Matsuzaki, namely, Ellis, Hendricks, and Gordon. Ellis teaches a client server interactive television program guide system. The system provides programming guide data to television distribution facilities. Users may filter the programming guide data based on the user's preferences. The system may track users viewing histories and provide customized programming guide data. *See Ellis, Abstract, and col. 1, l. 45 - col. 2, l. 63.*

Hendricks teaches an Operations Center for television entertainment systems to organize and package television programming and information for delivery to and from consumer homes. The Operations Center organizes and packages programming and information for delivery. *See Hendricks, Abstract.* The information may include a review of a users monthly account. *See Hendricks, col. 43, ll. 60-61.*

Gordon teaches network for transmitting viewable data objects to viewer receivers. Servers store viewable data objects that may be accessed by viewer receivers. *See Gordon, ¶ 11.* Users may browse and request the viewable data objects. *See Gordon, ¶¶ 12-13.*

The Examiner refers to Matsuzaki as teaching the features of a default rate, a custom rate, and a rate key, and relies on these other references to teach features the Examiner acknowledges are absent from Matsuzaki. These particular features are described in independent claims 1 and 34, and so are features of all dependent claims. The Applicant asserts that Ellis, Hendricks, and Gordon do not teach or suggest these features. (The Examiner has already explicitly acknowledged that Gordon does not teach the concept of a default rate and a custom rate, on page 6 of the Office Action dated October 6, 2005.) As a result, the combination of Matsuzaki with any of the cited references does not teach or suggest each and every element of all of the claims.

Claim 5 is directed toward a system according to claim 1, further comprising controls for randomly accessing the digital content. The combination of Gordon and Matsuzaki does not teach or suggest randomly accessing the digital content as recited in claim 5. Paragraph 45 of Gordon describes "commands may include pausing, resuming, fast forwarding, and rewinding the streaming object." The Examiner argued that randomly accessing includes playing forward or backward. *See Office Action dated March, 23, 2006, p. 8.* But resuming, fast forwarding, and

rewinding all involve sequential access. The portion of the streaming object that is presented is always the next in the sequence, whether forwards or backwards. In contrast, random access allows access to any point in a streaming object, without having to step through all the data that lies between the current point and the desired point. The Examiner is referred to Exhibit A, a printout of a website at “<http://foldoc.org/foldoc.cgi?query=random+access&action=Search>” for an example of a definition of random access. Thus, the order of access in random accessing does not affect the speed of access. In contrast, when fast forwarding or rewinding a video tape, for example, an access to a location on the tape distant from the current location will take more time to perform the access because each intervening portion of the video tape must be passed. Even with digital content such as digital video content, fast forwarding or rewinding must still pass sequentially through the intervening video content. The addition of Matsuzaki does not cure the deficiencies of Gordon as to randomly accessing the digital content.

Claim 45 is directed towards a method according to claim 34, wherein accessing a rate key further comprises transferring the user profile to the server from a second server outside of the multiple unit environment. Thus, a user profile is transferred from outside of the multiple unit environment. No such transferring from outside of the multiple unit environment is taught or suggested by any individual reference, let alone a combination of the cited references.

Claim 46 is directed toward a method according to claim 34, further comprising accessing a discount rate key from the user profile; and applying a discount to the selected rate based on the discount rate key; wherein the discount rate key indicates a plurality of discounts for the digital content. Although Matsuzaki might describe a discount, Matsuzaki does not teach or suggest a discount rate key as claimed. As described above, a rate key is distinct from a rate. Similarly, a discount rate key is distinct from a discount. The discount rate key indicates a plurality of discounts for the digital content. Thus, the discount rate key groups multiple discounts together. The combination of Matsuzaki with any of the other references does not teach or suggest such a discount rate key.

Claim 87 is directed toward the method of claim 34, wherein accessing the default rate further comprises accessing a default product rate for the digital content; accessing a default category rate for the digital content; providing the default product rate or the default category rate as the default rate based on an existence of the default product rate. Although Matsuzaki describes a basic charge, the basic charge is associated with a title “P”. *See Matsuzaki, col. 20, ll. 2-5.* Matsuzaki does not describe a default category rate. Each category of digital content

may be assigned a default billing rate, or in other words, a default category rate. *See Application, p. 7, ll. 24-26.* Furthermore, even if some rate in Matsuzaki is interpreted as a default category rate, there is no selection of a rate to be provided as the default rate based on an existence of the default product rate. The combination of Matsuzaki with any of the other references does not teach or suggest such a default category rate or a selection based on an existence of the default product rate.

Claim 88 is directed towards the method of claim 34, wherein accessing the default rate further comprises accessing a custom product rate for the digital content; accessing a custom category rate for the digital content; providing the custom product rate or the custom category rate as the custom rate based on an existence of the custom product rate. Similar to the default product rate, the default category rate, and the selection of one as the default rate as described above was not taught or suggested by any combination of the references, such a custom product rate, a custom category rate, and the selection of one as the custom rate is not taught or suggested by any combination of the references.

Claim 89 is directed towards the method of claim 34, wherein selecting the default rate or the custom rate for the digital content further comprises comparing the rate key of the user profile with rate keys in a product billing rate table, the product billing rate table indicating an association of rate keys and custom rates; selecting the default rate if the rate key of the user profile is not in the product billing rate table; and selecting the custom rate associated with the rate key of the user profile if the rate key of the user profile is in the product billing rate table. No product billing rate table associating rate keys with custom rates is taught or suggested by any combination of the references. Although FIGs. 9A and 9B of Matsuzaki show a table including a basic charge multiplied by a coefficient of basic charge, which the examiner cited as a custom rate, the table merely associates a charge with a terminal receiving the transmission. Furthermore, even if a product billing rate table is taught or suggested by the references, no selection from among a default rate and a custom rate occurs based on whether a rate key in a user profile is in the product billing rate table. Thus, the combination of Matsuzaki with any of the other references does not teach or suggest each and every element of claim 89.

Claim 90 is directed towards the method of claim 46, wherein applying a discount to the selected rate further comprises: comparing the discount rate key of the user profile with discount rate keys in a product discount table, the product discount table indicating an association of discount rate keys and discounts; and applying a discount associated with the discount rate key if

the discount rate key is in the product discount table. Similar to the product billing rate table, described above, no product discount table is taught or suggested by the references, individually or in combination. Furthermore, applying a discount associated with a discount rate key if the discount rate key is in the product discount table is not taught or suggested by any combination of the cited references.

Claim 91 is directed towards the method of claim 45, further comprising: identifying a user of the unit, wherein the user profile is associated with the user; requesting the user profile from a different multiple unit environment; and receiving the user profile. No identification of a user and a request of a user profile associated with the user from a difference multiple unit environment is taught or suggested by any of the cited references, individually or in combination.

Claim 92 is directed towards the method of claim 34, further comprising: storing a plurality of user profiles; monitoring accesses to the user profiles; identifying common characteristics of accessed user profiles; adjusting availability of the digitized content in response to the identified common characteristics. Although Ellis might suggest generating personal viewing recommendations by applying user preference profile criteria, such suggestions are based on the user preference criteria. *See Ellis, col. 20, ll. 24-31.* Such suggestion focuses on a particular user's criteria. In contrast, in claim 92, common characteristics of accessed user profiles are used. No such monitoring of accesses and identifying of common characteristics is taught or suggested in Ellis, or any combination of the references.

Furthermore, although recommendations might be filtered in Ellis, the filtering is again based on a particular user's criteria. *See Ellis, col. 20, ll. 24-45.* In contrast, in claim 92, the availability of the digitized content is adjusted in response to the identified common characteristics across multiple user profiles, not a single user profile. No such adjustment of availability is taught or suggested in Ellis, or any combination of the references.

Claim 93 is directed towards the method of claim 92, wherein identifying the common characteristics of accessed user profiles further comprises: monitoring a percentage of the accessed user profiles that include a particular characteristic; and identifying the particular characteristic as an identified common characteristic if the percentage is greater than a threshold. Even if the identification of common characteristics of user profiles is taught or suggested in a combination of the cited references, identifying a characteristic as a identified common characteristic if the percentage of user profiles with such a characteristic passes a threshold is not taught or suggested.

MPEP § 2142 describes three basic criteria to establish a prima facie case of obviousness: “First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.” As the prior art references cited by the Examiner all fail to teach at least these features of the claims as described above, the Examiner has failed to establish a prima facie case of obviousness. Accordingly, claims 1-11, 13-18, 20-33, 38-42, 45, 47-50, 55-93 are allowable under 35 U.S.C. § 103(a) over the various references.

For the foregoing reasons, reconsideration and allowance of claims 1-11, 13-18, 20-42, 45-51, and 55-93 of the application as amended is solicited. The Examiner is encouraged to telephone the undersigned at (503) 222-3613 if it appears that an interview would be helpful in advancing the case.

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Respectfully submitted,

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